IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2242 of 1986

For Approval and Signature:

HON'BLE DR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

J J DAVE
SINCE DECEASED THROUGH HIS HEIRS & L.R.

Versus

STATE BANK OF SAURASHTRA

Appearance:
1. Special Civil Application No. 2242 of 1986
MR ASHOK N PARMAR for Petitioner Nos. 1-1/6
MR JD AJMERA for the Respondent

CORAM : HON'BLE DR.JUSTICE J.N.BHATT

Date of decision: 10/12/2004

ORAL JUDGEMENT

1. By this petition, the petitioner, who was in the employment of respondent-State Bank of Saurashtra and was working as Cashier-in-charge at the Vadva Branch at Bhavnagar, has challenged the order of dismissal from service, passed by respondent-Bank on 26/2/1986.

2. It is, jurisprudentially, very well settled and

expounded proposition of law that in a petition, under Article 226 of the Constitution of India, the ambit of Judicial Review is very much circumscribed to examine not the quality of the impugned order or the judgment but the process, the procedure and the nature of holding of inquiry, as the Writ Court cannot tantamount to be an Appellate Court.

3. Bearing in mind the circumscribed periphery of the jurisdictional sweep of Judicial Review, under Article 226 of the Constitution of India, the evaluation and the assessment of the merits of the petition, insofar as the process adopted for the ultimate conclusion reaching into dismissal from the service of a Bank Cashier on the ground of misappropriation of money, public fund is concerned, let it be highlighted, at this stage, that the original petitioner was charge-sheeted for having indulged in the corrupt practice and misappropriating the public money in capacity of Cashier of the Respondent-Bank. In response to the charge-sheets, the original petitioner contested the charges.

4. The Inquiry Officer, upon consideration of the facts and circumstances of the evidence led before him, found the petitioner guilty. Inquiry Report is, also, produced in this petition. This Court has examined and considered the domestic proceedings and the charges levelled against the original petitioner and the supporting evidence. The Report of the Inquiry Officer was accepted and the Disciplinary Authority of the Respondent-Bank passed an order of dismissal from the service, being a case of corruption or misappropriation of public funds.

5. The charge-sheet dated 04-06-1982 and second charge-sheet dated 31-01-1983 was served and, thereafter, the Inquiry Officer duly appointed by the Respondent-Bank, held the inquiry, heard the original petitioner and submitted the report to the Disciplinary Authority, finding him delinquent and guilty in all the charges. The petitioner questioned the order of dismissal from service before the Appellate Authority under the relevant Rule Provision of the Respondent Bank, but unsuccessfully. That is the reason why the original petitioner knocked the doors of this Court by invocation of the provisions of Article 226 of the Constitution of India seeking reversal of the order of dismissal, recorded by the Disciplinary Authority in a domestic inquiry and, also, the confirmation order of the Appellate Authority of the Respondent-Bank.

6. We have gone through the proceedings and the evidence part before the Inquiry Officer and the Disciplinary Authority and they are placed on record. There is no nexus for the plea of breach of the Principles of Natural Justice or infraction of the relevant Rule Provisions in conducting the Departmental Inquiry. The ultimate result, on the basis of the Report of the Inquiry Officer, is passed after giving sufficient opportunity to the original petitioner in the domestic inquiry proceedings, and, thereafter the Dismissal Order was passed, which came to be confirmed by the Appellate Authority. Nothing has been, successfully, pointed out from the record to even, remotely, lead to any inference that the petitioner has not been afforded with an opportunity of hearing. Likewise, nothing has been, successfully, pointed out or even spelt out from the present petition that the Principles of Natural Justice are violated. There is no other point or submission. It is in this context, upon consideration of the two impugned orders recorded by the Disciplinary Authority and confirmed by the Appellate Authority respectively, that the respondent Bank could not be said to have been tainted or suffering from any legal lacuna, requiring or warranting the interference of this Court for exercise of its power under Article 226 of the Constitution of India. Therefore, upon consideration of the overall factual scenario and the entire record as well as the settled proposition of law, we find there is no nexus, whatsoever, for interference of this Court in the two orders challenged in this petition. Therefore, the only conclusion, which, now, is to reach, is to dismiss the petition, confirming and approving the impugned orders.

7. In the result, petition fails and the impugned orders are affirmed. Rule shall stand discharged. No costs.

(Dr. J. N. Bhatt, J.)

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